

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

EX PARTE APPLICATION OF
ENI GHANA EXPLORATION AND
PRODUCTION LIMITED

and

VITOL UPSTREAM GHANA LIMITED,
PETITIONERS,
FOR AN ORDER
PURSUANT TO 28 U.S.C. § 1782 TO
OBTAIN DISCOVERY FOR USE IN
FOREIGN PROCEEDINGS

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MISCELLANEOUS Action
No.:

***EX PARTE* APPLICATION OF ENI GHANA EXPLORATION AND PRODUCTION
LIMITED AND VITOL UPSTREAM GHANA LIMITED FOR AN ORDER PURSUANT
TO 28 U.S.C. § 1782 TO OBTAIN DISCOVERY FOR USE IN FOREIGN
PROCEEDINGS**

Eni Ghana Exploration and Production Limited and Vitol Upstream Ghana Limited (“Petitioners”) respectfully request an Order in the form attached hereto as **Exhibit 1** permitting Petitioners to obtain targeted but important discovery from Gaffney, Cline & Associates (“Gaffney Cline”) and its parent company, Baker Hughes, pursuant to 28 U.S.C. § 1782 in connection with two foreign proceedings pending before the courts of Ghana to which Petitioners are parties. In support of this Application, Petitioners submit a Memorandum of Law and attach the Declarations of Giuseppe Valenti, Kimathi Kuenyehia, and Luke Sobota. Petitioners further state as follows:

1. Section 1782 permits litigants in foreign proceedings to obtain discovery in the United States for use in those foreign proceedings. In particular, § 1782 states:

“The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made . . . upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court.”

2. The statutory requirements of § 1782 are satisfied here. As explained in the accompanying Memorandum of Law, (i) Gaffney Cline and Baker Hughes “reside” or are “found” in this District, (ii) the requested discovery is “for use” in foreign proceedings, and (iii) Petitioners, who are parties to the proceedings before the courts of Ghana, are “interested person[s].”
3. This Application also meets the discretionary factors set out by the United States Supreme Court in *Intel Corp. v. Advanced Micro Devices, Inc.*, 524 U.S. 241 (2004). As explained in the accompanying Memorandum of Law: (i) Gaffney Cline and Baker Hughes are not parties in the foreign proceedings, (ii) the courts of Ghana are receptive to U.S. court assistance, (iii) Petitioners are not attempting to circumvent foreign proof-gathering restrictions, and (iv) the discovery requested is not unduly intrusive or burdensome.¹

¹ See *Intel Corp. v. Advanced Micro Devices, Inc.*, 524 U.S. 241, 264-65 (2004) (describing discretionary factors).

4. Petitioners therefore respectfully request that this Court grant this Application for an Order granting Petitioners leave to serve Gaffney Cline and Baker Hughes with the subpoenas attached as **Exhibits 1** and **2** to the Declaration of Luke Sobota.
5. WHEREFORE, Petitioners respectfully request that this Court enter an Order:
 - (1) Granting the application for discovery under 28 U.S.C. § 1782;
 - (2) Authorizing Petitioners to take discovery from Gaffney Cline and Baker Hughes, by issuing the proposed subpoenas; and
 - (3) Directing Gaffney Cline and Baker Hughes to comply with the subpoenas issued in this case in accordance with the Federal Rules of Civil Procedure and the Rules of this Court.

Dated: July 29, 2022

Respectfully submitted,

THE CUNNINGHAM LAW FIRM

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